

The DEP proposes that the proceeds from the sale of the site be allocated in the following manner.

The Town of Kearny would be reimbursed for its foreclosure costs from the gross sale proceeds. This would be the first disbursement from the sale proceeds. The net sale proceeds are the sale price less the disbursement to the Town of Kearny.

If the net sale of the site is \$18 million or less, the EPA would receive 70% of the net sale proceeds, the Town of Kearny would receive 15% of the net sale proceeds and the DEP would receive 15% of the net sale proceeds.

Example: Net sale price = \$18M (roughly \$1.125M/acre). EPA receives \$12.6M, Kearny receives an additional \$2.7M above foreclosure costs, and DEP receives \$2.7M

If the net sale of the site is more than \$18 million, the “surplus” would be the difference between \$18 million and the net sale of the site. In the event that the sale of the site is for more than \$18 million, the net sale proceeds shall be distributed in the following way. Surplus proceeds shall reimburse DEP for its Operation and Maintenance (O&M) costs. DEP’s O&M costs shall consist of actual contractor costs. O&M costs are only those costs incurred by DEP from the date that a Memorandum of Agreement is signed by EPA, the Town of Kearny, and the DEP until title of the site is transferred to a developer. After the surplus proceeds are allocated to DEP for its O&M costs, the EPA would receive 70% of the net sale proceeds, the Town of Kearny would receive 15% of the net sale proceeds and the DEP would receive 15% of the net sale proceeds.

The DEP would receive O&M reimbursement only up to the extent of the surplus. If the DEP’s O&M costs exceed the surplus, the O&M draw down shall cease once the surplus proceeds are exhausted. Any excess surplus, after DEP’s O&M costs are covered, is split 70-15-15.

Examples:

Net Sale Price = \$18.5M (roughly \$1.156M/acre) and DEP O&M costs post MOA are \$1M. EPA receives \$12.6M, Kearny receives an additional \$2.7M above foreclosure costs, and DEP receives \$3.2M (\$2.7M + \$500,000).

Net Sale Price = \$25M (roughly \$1.56M/acre) and DEP O&M costs post MOA are \$1M. EPA receives \$16.8M, Kearny receives an additional \$3.6M above foreclosure costs, and DEP receives \$4.6M.